



**DEPARTMENT OF TRANSPORTATION**

**[4910-EX-P]**

**Federal Motor Carrier Safety Administration**

**[Docket No. FMCSA-2014-0037]**

**Parts and Accessories Necessary for Safe Operation; Mobileye, Inc. Application for an Exemption**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition.

**SUMMARY:** The Federal Motor Carrier Safety Administration (FMCSA) announces its decision to grant Mobileye, Inc.'s (Mobileye) exemption application to enable motor carriers to utilize its camera-based collision avoidance systems (CAS) mounted within the swept area of the windshield wipers. The Federal Motor Carrier Safety Regulations (FMCSRs) currently require antennas, transponders, and similar devices to be located outside the area swept by the windshield wipers. The Mobileye CAS is able to warn drivers of potential hazards by detecting other vehicles, pedestrians and cyclists on the road, and lane markings and traffic signs. The Agency believes the use of the CAS promotes improved safety performance and that the placement of the system in the swept area of the windshield wipers will not obstruct drivers' view of the roadway and potential hazards. The Agency has concluded that the limited 2-year exemption will achieve a level of safety equivalent to or greater than the level of safety provided by the rule restricting the placement of devices in the windshield area.

**DATES:** This exemption is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] and ending [INSERT DATE TWO YEARS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Mr. Mike Huntley, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC-PSV, (202) 366-5370, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

*Docket:* For access to the docket to read background documents or comments submitted to notice requesting public comments on the exemption application, go to [www.regulations.gov](http://www.regulations.gov) at any time or visit Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line Federal document management system is available 24 hours each day, 365 days each year. The docket number is listed at the beginning of this notice.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

#### **Mobileye's Application for Exemption**

Mobileye applied for an exemption from 49 CFR 393.60(e)(1) to allow the installation of a CAS system on several thousand commercial motor vehicles. A copy of the application is included in the docket referenced at the beginning of this notice.

Section 393.60(e)(1) of the FMCSRs prohibits the obstruction of the driver's field of view by devices mounted at the top of the windshield. Antennas, transponders and similar devices must not be mounted more than 152 mm (6 inches) below the upper edge of the windshield. These devices must be located outside the area swept by the windshield wipers and outside the driver's sight lines to the road and highway signs and signals.

In its application, Mobileye stated:

Mobileye is making this request because we are coordinating device development and installation of a camera based collision avoidance system in up to several hundred thousand commercial motor vehicles. The camera based sensor equipment to be installed is going to be located at either the bottom or top of the windshield, but will be in the swept area of the windshield wipers because the safety equipment must have a clear forward facing view of the road.

This system is the same technology that Mobileye provides to carmakers such as Ford, GM, Honda and many others. These companies have deployed over two million vehicles with this technology. Collision avoidance systems, in particular those that have the main features of Mobileye, have been noted by NHTSA, NTSB and FMCSA as key safety equipment in both cars and trucks. Recently, the NTSB cited this type of collision avoidance system as part of its top ten "most wanted" advocacy priorities. FMCSA itself has recommended Forward Collision Warning and Lane Departure Warning, just two of Mobileye features. Mobileye seeks exemption for the aftermarket (field retrofitable) version of this technology.

With the exemption, Mobileye will be able to install the camera based collision avoidance system in a location which will offer the best opportunity to optimize the data and evaluate the benefits of such a system as well as maximize safety benefits.

FMCSA published a notice of the application in the Federal Register on July 2, 2014, and asked for public comment (79 FR 37841).

### **Comments**

In response to its notice requesting public comment, the Agency received one comment from the American Trucking Associations (ATA). The ATA stated that it “strongly supports” granting the exemption to allow use of the Mobileye CAS in commercial motor vehicles. The ATA noted that “Safety technology companies have been working with many ATA members to help reduce carrier crash involvement rates using their technologies. As a result, many of our member companies have seen significant decreases in the number of at-fault collisions and near misses.”

### **FMCSA Decision**

The FMCSA has evaluated the Mobileye exemption application. The Agency believes that granting the temporary exemption to allow placement of the Mobileye CAS system sensor in the upper or lower portion of the windshield, within the swept area of the windshield wipers, will provide a level of safety that is equivalent to, or greater than,

the level of safety achieved without the exemption because (1) based on the technical information available, there is no indication that the CAS sensor would obstruct drivers' views of the roadway, highway signs and surrounding traffic; (2) generally, trucks and buses have an elevated seating position that greatly improves the forward visual field of the driver, and any impairment of available sight lines would be minimal; and (3) the location within the top or bottom four inches of the area swept by the windshield wiper and out of the driver's normal sightline will be reasonable and enforceable at roadside. In addition, the Agency believes that the use of the Mobileye CAS by fleets is likely to improve the overall level of safety to the motoring public.

This action is consistent with previous Agency actions permitting the similar placement of video event recorders on CMVs, within the swept area of the windshield wipers. FMCSA has granted temporary exemptions to Greyhound Lines, Inc. and to DriveCam, Inc. regarding the use of the video event recorders to increase safety through (1) identification and remediation of risky driving behaviors such as distracted driving and drowsiness, (2) enhanced monitoring of passenger behavior on CMVs in passenger service, and (3) enhanced collision review and analysis. Both of these exemptions have been renewed for two additional 2-year periods, as FMCSA is not aware of any evidence showing that the installation of the devices in the upper area of the windshield has resulted in any degradation in safety. The Agency has not received any feedback from interested parties suggesting that use of safety devices/technology in the windshield area have had an adverse impact on safety.

This action is also consistent with previous Agency actions permitting the similar placement of lane departure warning system sensors on CMVs, within the swept

area of the windshield wipers. FMCSA initially granted temporary exemptions to Conway Freight, TK Holdings, Inc., and Iteris, Inc. regarding the use of lane departure warning systems to increase safety by alerting drivers who unintentionally drift out of their lane of travel. The Agency renewed the exemptions for an additional 2-year period, and while the original exemptions granted relief to motor carriers using only the Takata and Iteris lane departure warning systems, the Agency determined—given that it has not been made aware of any reduction in the level of safety associated with the use of those systems—that it was appropriate to extend the scope of the exemption to encompass motor carriers using any lane departure warning system, provided that such sensors (1) are the same size or smaller than the Takata and Iteris (now Bendix) sensors, and (2) mounted in the windshield in accordance with the provisions of the original exemption.

FMCSA continues to believe that the potential safety gains from the use of video event recorders and lane departure warning systems to improve driver behavior and performance will improve the overall level of safety to the motoring public. The Agency believes the same is true regarding the use of the Mobileye CAS.

#### **Terms and Conditions for the Exemption**

The Agency hereby grants the exemption for a two-year period, beginning [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] and ending [INSERT DATE TWO YEARS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]. During the temporary exemption period, motor carriers using the Mobileye CAS must ensure that the sensor is mounted not more than 100 mm (4 inches) below the upper edge, or above the lower edge, of the area swept by the windshield wipers, and outside the driver's sight lines to the road and highway signs and signals. The exemption

will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) motor carriers and/or commercial motor vehicles fail to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Interested parties possessing information that would demonstrate that motor carriers using the Mobileye CAS are not achieving the requisite statutory level of safety should immediately notify FMCSA. The Agency will evaluate any such information and, if safety is being compromised or if the continuation of the exemption is not consistent with 49 U.S.C. 31136(e) and 31315(b), will take immediate steps to revoke the exemption.

### **Preemption**

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with or is inconsistent with this exemption with respect to a person operating under the exemption.

Issued on: March 12, 2015.

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T.F. Scott Darling, III,  
Acting Administrator.

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